

**Coleman, Akers and Akers Construction Company and Kentucky State District Council of Carpenters, for and on behalf of Carpenters Local 1650, United Brotherhood of Carpenters and Joiners of America, AFL-CIO. Case 9-CA-26799**

March 27, 1992

**DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

On March 22, 1990, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> *inter alia*, ordering Respondent, Coleman, Akers and Akers Construction Company, to make whole Terry Coleman, Terry Ratliff, and Floyd Reynolds for their losses resulting from Respondent's unfair labor practices in violation of Section 8(a)(1) and (3) of the National Labor Relations Act.<sup>2</sup> The Board's Order was enforced in full by the United States Court of Appeals for the Sixth Circuit on April 4, 1991.

A controversy having arisen over the amount of backpay due discriminatees Coleman and Reynolds, the Acting Regional Director for Region 9 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated January 24, 1992, counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by February 3, 1992, summary judgment would be sought. The Respondent filed no answer.

On February 24, 1992, the General Counsel filed with the Board a motion to transfer proceedings to the Board and Motion for Summary Judgment, with exhibits attached. On February 27, 1992, the Board issued

an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondents to the discriminatees.

**ORDER**

The National Labor Relations Board orders that the Respondent, Coleman, Akers and Akers Construction Company, Lexington, Kentucky, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws.

Terry Coleman	\$3,450.00
Floyd Reynolds	392.00

<sup>1</sup> 297 NLRB No. 167 (not reported in Board volumes).

<sup>2</sup> The Respondent previously paid Coleman, Ratliff, and Reynolds for losses resulting from their unlawful layoff on or about August 10, 1989. The only monetary provisions of the Board's Order remaining for compliance are the August 25, 1989 discharge of Terry Coleman and the September 15, 1989 constructive discharge of Floyd Reynolds.